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EXAMINER

SHELEHEDA, JAMES R

ART UNIT PAPER NUMBER

2623

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,848

Applicant(s)

STALLWORTH, F. DAVID

Examiner

James Sheleheda

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6, 8, 10-12, 18-20 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Paul (6,381,745).

As to claim 1, Paul discloses a system for delivering to a subscriber a first signal that is subject to a right-of-way franchise fee (satellite television signals; column 1, line 66-column 2, line 28), the system comprising:

(a) a central office located on a first side of a right-of-way (local cable company, CATV source, 163; column 2, lines 38-46);

(b) a multiplexer in communication with the central office (Fig. 1; 115), wherein the central office transmits a second signal to the multiplexer (transmitting cable television signals; Fig. 1; column 1, line 66-column 2, line 46), and

wherein the multiplexer is located on a second side of the right-of-way opposite the first side such that the second signal must cross the right-of-way to reach the multiplexer (cable television signals crossing the right of way, established by local governments to pay video franchise fees, to reach the television subscribers; see Fig. 1); and

(c) a wireless receiver located on the second side of the right-of-way (satellite dish, 160, located at the subscriber home; Fig. 1; column 1, lines 11-32 and column 2, lines 38-46),

wherein the wireless receiver receives the first signal and transmits the first signal to the multiplexer (column 2, lines 38-59 and column 4, lines 33-42),

wherein the multiplexer combines the second signal and the first signal into a combined signal for routing to the subscriber (column 3, lines 23-27 and column 4, lines 33-42), and

wherein the subscriber is located on the second side of the right-of-way (see Fig. 1).

As to claim 3, Paul discloses wherein the first signal is a video signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a data signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 4, Paul discloses wherein the first signal is a data signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a video signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 6, Paul discloses wherein the wireless receiver is a satellite dish (satellite dish, 160; Fig. 1).

As to claim 8, Paul discloses wherein the first signal is transmitted over a first wavelength and wherein the second signal is transmitted over a second wavelength that is different then from the first wavelength (wherein signals of different frequencies have different wavelengths; column 3, lines 23-27).

As to claim 10, Paul discloses wherein the right-of-way franchise fee is imposed by a local governing authority (wherein a right-of-way franchise fee *is* a government imposed fee).

As to claim 11, Paul discloses a system for delivering to a subscriber a first signal that is subject to a right-of-way franchise fee (satellite television signals; column 1, line 66-column 2, line 28), wherein the method comprises the step of:

(a) transmitting a second signal from a first side of the right of way (transmitting cable television signals; Fig. 1; column 1, line 66-column 2, line 46), through the right of way, to a second side of the right of way, wherein the first side is opposite the second side (cable television signals crossing the right of way, established by local government to pay video franchise fees, to reach the television subscribers; see Fig. 1);

(b) receiving via a wireless communication the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way (receiving broadcast satellite signals; column 2, lines 38-59 and column 4, lines 33-42);

(c) combining the first signal and the second signal into a combined signal on the second side of the right of way (column 3, lines 23-27 and column 4, lines 33-42),

(d) routing the combined signal in the direction of the subscriber (Fig. 1; column 4, lines 39-42 and column 4, lines 59-65), wherein the subscriber is on the second side of the right-of-way (see Fig 1);

(e) separating the combined signal into the first signal and the second signal (column 4, lines 59-63); and

(f) routing the first signal and the second signal to the subscriber (column 4, lines 59-63).

As to claim 12, Paul discloses wherein the wireless communication is satellite communication (Fig. 1; column 1, line 66-column 2, line 7), and wherein the step of receiving the first signal comprises receiving the first signal with a satellite receiver located on the second side of the right of way (at satellite dish, 160, at the user's home; Fig. 1; column 2, line 41-46).

As to claim 18, Paul discloses wherein the first signal is a video signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a data signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 19, Paul discloses wherein the first signal is a data signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a video signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 20, Paul discloses a system for delivering to a subscriber a first signal that is subject to right-of-way franchise fees (video; column 3, lines 35-43), wherein the method comprises the step of:

(a) transmitting a second signal (transmitting cable television signals; Fig. 1; column 1, line 66-column 2, line 46) from a central office (Fig. 1, 163) through a right of way (cable television signals crossing the right of way, established by local government to pay video franchise fees, to reach the television subscribers; see Fig. 1) to a multiplexer (Fig. 1; 115), wherein the central office is located on a first side of the right of way and the multiplexer is located on a second side of the right of way opposite the first side (see Fig. 1),

(b) receiving the first signal at a wireless receiver (satellite dish, 160, located at the subscriber home; Fig. 1; column 1, lines 11-32 and column 2, lines 38-46), located on the second side of the right-of-way (see Fig. 1);

(c) transmitting the first signal from the wireless receiver to the multiplexer (column 2, lines 38-59 and column 4, lines 33-42) without crossing the right of way (wherein both are located at the subscriber home; see Fig. 1);

(d) combining the first signal and the second signal into a combined signal at the multiplexer (column 3, lines 23-27 and column 4, lines 33-42);

(e) routing the combined signal from the multiplexer to a local terminal (satellite adaptor, 150; Fig. 1; column 4, lines 39-42 and column 4, lines 59-65), that is located on the second side of the right of way (see Fig. 1);

(f) separating the combined signal into the first signal and the second signal at the local terminal (column 4, lines 59-63); and

(f) routing the first signal and the second signal from the local terminal to the subscriber (column 4, lines 59-63) wherein the subscriber is located on the second side of the right-of-way (see Fig. 1).

As to claim 24, Paul discloses wherein the first signal is a video signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a data signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 25, Paul discloses wherein the first signal is a data signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a video signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 26, Paul discloses a system for delivering to a subscriber a first signal that is subject to a right-of-way franchise fee (satellite television signals; column 1, line 66-column 2, line 28), wherein the method comprises the step of:

(a) means for transmitting (CATV source, 163) a second signal from a first side of the right of way (transmitting cable television signals; Fig. 1; column 1, line 66-column 2, line 46), through the right of way, to a second side of the right of way, wherein the first side is opposite the second side (cable television signals crossing the right of way,

established by local government to pay video franchise fees, to reach the television subscribers; see Fig. 1);

(b) means for receiving (satellite dish, 160; Fig. 1) via a wireless communication the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way (receiving broadcast satellite signals; column 2, lines 38-59 and column 4, lines 33-42);

(c) means for combining (diplexer, 115) the first signal and the second signal into a combined signal on the second side of the right of way (column 3, lines 23-27 and column 4, lines 33-42),

(d) means for routing (splitters, 116 and 130) the combined signal in the direction of the subscriber (Fig. 1; column 4, lines 39-42 and column 4, lines 59-65), wherein the subscriber is on the second side of the right-of-way (see Fig 1);

(e) means for separating (diplexor, 152) the combined signal into the first signal and the second signal (column 4, lines 59-63); and

(f) means for routing (satellite receiver, 170) the first signal and the second signal to the subscriber (column 4, line 59-column 5, line 9).

As to claim 27, Paul discloses wherein the first signal is a video signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a data signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

As to claim 28, Paul discloses wherein the first signal is a data signal (satellite television signals; column 1, line 66-column 2, line 28), and the second signal is a video signal (cable television signals; Fig. 1; column 1, line 66-column 2, line 46).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 9, 13-16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paul as applied to claims 1, 11 and 20 above, and further in view of Applicant's admitted prior art.

As to claims 7 and 22, while Paul discloses a multiplexer to combine video and data signals, he fails to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one

another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Paul's system to include a wave division multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire which carries more information over a smaller lighter wire.

As to claim 9, while Paul discloses a multiplexer to combine a first video signal and a second data signal at different wavelengths, he fails to specifically disclose wherein the first signal is transmitted over a 1550 nanometer wavelength and the second signal is transmitted over a 1310 nanometer wavelength.

Applicant's conceded that the prior art discloses the use of multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit a first video signal over a 1550 nanometer wavelength (see specification at page 5, paragraph 13) and a second data signal over a 1310-nanometer wavelength (see Applicant's specification at page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Paul's system to include wherein the first signal is transmitted over a 1550 nanometer wavelength and the second signal is transmitted over a 1310 nanometer wavelength, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire which carries more information over a smaller lighter wire.

As to claim 13, while Paul discloses wherein the step of combining the first and second signal comprises receiving the first signal and the second signal at a multiplexer and multiplexing the first signal with the second signal using the multiplexer, he fails to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Paul's system to include a wave division multiplexer, as

taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire which carries more information over a smaller lighter wire.

As to claim 14, Paul and Applicant's admitted prior art disclose wherein the step of routing the combined signal comprises routing the combined signal from the wave division multiplexer to a splitter that is in communication with the subscriber (wherein the cable and satellite signals are separated and transmitted to the satellite receiver, 170; see Paul at Fig. 1; column 4, lines 33-42 and column 4, line 59-column 5, line 9).

As to claim 16, Paul and Applicant's admitted prior art disclose wherein the splitter includes a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14), and the step of separating the combined signal comprises separating the combined signal with the wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14).

As to claims 15 and 23, while Paul discloses wherein the step of separating the combined signals comprises transmitting the combined signal to a de-multiplexer that separates the combined signal into the first signal and the second signal (wherein the cable and satellite signals are separated and transmitted to the satellite receiver, 170;

see Paul at Fig. 1; column 4, lines 33-42 and column 4, line 59-column 5, line 9), he fails to specifically disclose a wave division de-multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) to a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Paul's system to include a wave division de-multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire which carries more information over a smaller lighter wire.

5. Claims 2, 5, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paul.

As to claim 2, while Paul discloses a unit in communication with the multiplexer (Fig. 1), wherein the unit receives the combined signal from the multiplexer (Fig. 1; diplexer, 152; column 4, lines 33-42 and column 4, line 59-column 5, line 9), separates the combined signal into the first and second signal (Fig. 1; diplexer, 152; column 4, lines 33-42 and column 4, line 59-column 5, line 9), and routes the first signal and second signal to the subscriber (Fig. 1; diplexer, 152; column 4, lines 33-42 and column 4, line 59-column 5, line 9), he fails to specifically disclose wherein the unit is an optical network unit.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize an optical network unit to receive, separate and route signals, so as to allow the use of fiber optic cables to distribute signals, which provides signal transmission capabilities through smaller and lighter cables, for the typical benefit of receiving and distributing multiplexed signals received from a fiber optic cable, which can carry more information than a coaxial cable.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Paul's system to include an optical network unit for the typical benefit of receiving and distributing multiplexed signals received from a fiber optic cable, which can carry more information than a coaxial cable.

As to claims 5, 17 and 21, while Paul discloses receiving both the second signal and the first signal from a satellite receiver and transmitting them to the multiplexer (see

Fig. 1; column 5, lines 46-64), he fails to specifically disclose converting the signals to optical signals for transmission across fiber optic wires.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to convert and transmit signals across fiber optic lines, as opposed to copper or coaxial cables, as fiber optic cables can carry much more information in wires which are smaller and lighter than conventional wiring, for the typical benefit of utilizing a transmission medium which can carry additional information through smaller lighter wires.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Paul's system to include converting the signals to optical signals for transmission across fiber optic wires for the typical benefit of utilizing a transmission medium which can carry additional information through smaller lighter wires.

Response to Arguments

6. Applicant's arguments, see page 1, filed 02/15/06, with respect to the rejection(s) of claim(s) 1, 11, 20 and 26 under Hylton have been fully considered and are persuasive, as it appears that the components indicated in Fig. 2A would exist in a single facility. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Paul.

Conclusion

Art Unit: 2623

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis et al. (US 2005/0028208 A1) disclosing an in-home video distribution system utilizing fiber optic cables.

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
Art Unit 2623

A handwritten signature in black ink, appearing to read "Chris Kelley". The signature is fluid and cursive, with the first name "Chris" and last name "Kelley" clearly distinguishable.

CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600